

OAKLAND CITY COUNCIL

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RESOLUTION No. 76251 C.M.S.

RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY TO COMPROMISE AND SETTLE THE CASE OF CITY OF OAKLAND VS. CALIFORNIA GLASS COMPANY, ET AL, ALAMEDA COUNTY SUPERIOR COURT CASE NO. 81007-0, ARISING OUT OF EMINENT DOMAIN LITIGATION REGARDING CERTAIN REAL PROPERTY LOCATED AT 155 98TH AVENUE, OAKLAND, COUNTY OF ALAMEDA FOR THE AIRPORT ROADWAY PROJECT, WIDENING AND IMPROVEMENT OF 98TH AVENUE COMPONENT, IN THE AMOUNT OF \$323,757.45, PLUS INTEREST AND COURT COSTS, \$6,736.00 FOR PROJECT CONSTRUCTION RELATED DAMAGES, INTEREST OF \$6,165.38 UNTIL DECEMBER 31, 2000, LITIGATION COSTS OF \$1,396.27, AND INTEREST BEGINNING JANUARY 1, 2001 IN THE AMOUNT OF \$12.74 PER DAY.

WHEREAS, the voters of Alameda County approved Measure B in November 1986 for sales tax funding of specific transportation projects in the county; and,

WHEREAS, the Airport Roadway Project (“Project”) is one of the projects designed by Measure B with the Port of Oakland (Port) as the Project Sponsor; and,

WHEREAS, on May 21, 1996, the City Council approved, by Resolution No. 72668 C.M.S. the funding agreement (Agreement) with the Alameda County Transportation Authority (ACTA), the City of Alameda (Alameda) and the Port for sharing the Project expenditure and other related actions to successfully complete the Project; and,

WHEREAS, the City Council approved amendments to the Agreement on December 9, 1997 (by Resolution No. 73963 C.M.S.) and on June 23, 1998 (by Resolution No. 74343 C.M.S.); and,

WHEREAS, on February 17, 1998 the City Council approved the Project and the widening of 98th Avenue by Resolution No. 74075 C.M.S.; and,

WHEREAS, the Airport Roadway Project, in Resolutions No. 74840, 74852 and 74853, dated March 16, 1999, authorized City staff to initiate acquisition, site clearance and relocation activities; and,

WHEREAS, in order to facilitate the portion of the Airport Roadway Project along 98th Avenue, the City has filed a condemnation action to acquire portions of the property located at 155 98th Avenue, Oakland, County of Alameda and as set out in Exhibit “A” (“Property”) Alameda County Superior Court No. 810070-0, and,

WHEREAS, California Glass Company, Barbara J. Pen and Leonard L. Silvani, and Bank of America National Trust and Savings Corporation (collectively "Owners") own the Property; and,

WHEREAS, the City filed an eminent domain action to acquire Owners' interests in the Property and the City and Owners have agreed to settle the action, with the Owners agreeing to relinquish its interests in consideration for payment by the City; and,

WHEREAS, the project committee overseeing the administration of the Airport Roadway Project, pursuant to the agreements among the project sponsors, the City, the Port of Oakland, the City of Alameda and the Alameda County Transportation Authority, has approved acquisition of the Owner interests in the Properties for the amount described below and the expenditure of project funds for that acquisition, now therefore

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES RESOLVE AS FOLLOWS:

SECTION 1: The City Attorney or his/her designee is authorized to execute such documents as are necessary to settle to eminent domain litigation with the Owners' for an amount not to exceed \$323,757.45 plus interest thereon and court costs, \$6,736.00 for fencing and paving, interest of \$6,165.38 until December 31,2000, litigation costs of 1,396.27, and interest beginning January 1, 2001 in the amount of \$12.74 per day including execution of a Settlement Agreement (the "Settlement Agreement").

SECTION 2: The Stipulation For Entry of Judgment and Judgment in Condemnation, to be entered pursuant to the Settlement Agreement, shall be approved as to form and legality by the City Attorney and a copy shall be filed with the office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 23 2001, 2000

Passed By The Following Vote:

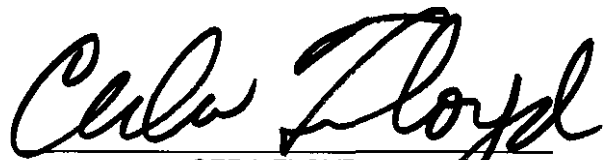
AYES- BRUNNER, CHANG, NADEL, REID, ~~RUSCO~~^{WAN}, SPEES, AND
PRESIDENT DE LA FUENTE 7

NOES- None

ABSENT- None

ABSTENTION- None

ATTEST



CEDA FLOYD
City Clerk and Clerk of the Council
of the City Of Oakland, California